



State of Illinois
Department of Human Rights

Guide for Respondents

ILLINOIS DEPARTMENT OF
Human Rights

Services Provided

*What the Illinois Human
Rights Act Provides*

*What Happens When a
Charge is Filed*

The Illinois Department of Human Rights

The Illinois Department of Human Rights ("IDHR") is the state agency responsible for enforcing the Illinois Human Rights Act ("Act").

MISSION

THE MISSION OF THE ILLINOIS DEPARTMENT OF HUMAN RIGHTS IS TO SECURE FOR ALL INDIVIDUALS WITHIN THE STATE OF ILLINOIS FREEDOM FROM UNLAWFUL DISCRIMINATION AND TO ESTABLISH AND PROMOTE EQUAL OPPORTUNITY AND AFFIRMATIVE ACTION AS THE POLICY OF THIS STATE FOR ALL ITS RESIDENTS.

In addition to being an enforcement agency, IDHR also provides a number of services and works in partnership with companies, agencies, organizations and individuals to provide:

Services
IDHR

Provided by

Public Contracts: All employees and companies that wish to do business with any state entity in Illinois must register through the Public Contracts Unit to ensure that they have implemented equal employment opportunity and affirmative action policies and are in compliance with the Illinois Human Rights Act and the Department's rules and regulations (www.state.il.us/dhr/Programs/DHR_PBCT.htm). This unit also helps businesses and state agencies develop sexual harassment prevention policies and affirmative action plans (www.state.il.us/dhr/Liaison/default.htm).



Training: The Institute for Training and Development ("Institute") conducts, throughout Illinois, training designed to increase respect among diverse cultures both in the workplace and at home. Using real-life scenarios, certified trainers provide information on fair-employment laws and practices, ways to resolve conflict through better understanding, and non-discrimination requirements such as sexual harassment prevention. Handouts are supplied for independent study and on-the-job reference tools. The Institute is approved by the HR Certification Institute and offers training modules for HR Certification. Both public and private sessions are offered. Fees may apply to on-site training. For more information or to schedule training, call (312) 814-2477.

The Law & Your Responsibilities

The Illinois Human Rights Act prohibits

discrimination with respect to employment, financial credit, public accommodations and real estate transactions because of a person's race, color, religion, sex (including sexual harassment), national origin, ancestry, military status, age (40 and over), order of protection status, marital status, sexual orientation (including gender-related identity), unfavorable military discharge and physical and mental disability. The Act also prohibits sexual harassment in education, discrimination because of citizenship status and arrest record in employment, and discrimination based on familial status in real estate transactions.

Employment: The law protects persons from discrimination in all terms and conditions of employment, including hiring, selection, promotion, transfer, pay, tenure, discharge, and discipline.

Real Estate Transactions (Housing): It is unlawful to discriminate in the sale or rental of residential or commercial property. A few examples of such discrimination are:

- Altering the terms, conditions or privileges of the transaction.
- Refusing to receive or transmit a bona fide offer.
- Refusing to negotiate or grant mortgage loans.
- Misrepresenting that property is not available for rental or sale.

Financial Credit: All financial institutions doing business in Illinois are prohibited from discriminating in the granting of commercial or personal loans and credit cards.

Public Accommodations: It is unlawful to discriminate in the full and equal enjoyment of facilities, goods and services by any place of public accommodation, such as a business, recreation, lodging, entertainment, or transportation facility.

Sexual Harassment in Education: The law prohibits unwelcome advances of a sexual nature or requests for sexual favors of students by an executive, faculty member, administrative staff member, or teaching assistant in a public or private educational institution when such behavior interferes with the student's performance; creates an intimidating, hostile or offensive environment; or is a term or condition of academic or extracurricular opportunities. It is also unlawful for any educational institution to fail to take remedial action or appropriate disciplinary action against any representative employed by such institution when such institution is aware of the sexual harassment.

A charge of discrimination with IDHR may be filed against you or your organization, company or agency alleging:

- 1) you discriminated against a covered individual;
- 2) the conduct was based on the individual's status in one of the protected classes; and
- 3) the conduct was in one of the five covered areas.

Charges must be filed with the Department of Human Rights no later than 180 days after the date the discrimination took place. (Complainants are allowed one year to file charges of housing discrimination.)

What Happens When a Charge is Filed?

If a charge filed with the Department names you, your company or organi-

zation as a Respondent, a copy of the charge and an initial request for information will be served on the named Respondent via mail within 10 days of the date IDHR receives a perfected (notarized and dated) charge.

You will be required to file a verified response to the charge and provide a response to IDHR's questionnaire by the date indicated. Failure to respond can result in a default finding against you.

**For charges involving real estate transactions, see Articles 3, 7B, and 8B of the IHRA and/or the Fair Housing Brochure.*

Mediation

A mediation conference is an alternative to an investigation and may quickly resolve a charge. Mediation is an informal, no-cost process in which the Complainant and Respondent meet voluntarily with a trained and certified IDHR mediator who helps them explore possible resolution of the charge. The mediation process is confidential and is available for all Chicago non-housing cases.

All mediation settlement conferences are held in the IDHR Chicago office. During the mediation (which can take four hours or more), attorneys may be present in an advisory role. The IDHR mediator does not impose a decision on the parties. Accepting a settlement agreement does not constitute an admission of guilt by the Respondent.

The terms of settlement can include monetary and/or non-monetary elements. After a mediation settlement is reached, both parties have 10 days (which may be waived) to opt out of the settlement. If the parties are unable to reach an agreement, the charge will proceed through to the investigation stage.

The Investigation

tion is unsuccessful. Respondents and Complainants have a responsibility to cooperate with IDHR's investigation. IDHR also has the power to subpoena relevant documents and persons.

IDHR's role is to conduct a neutral investigation of the allegations in the charge. The Investigator assigned to the case may contact and interview relevant witnesses and may obtain pertinent documents from both parties. Respondents are required to preserve any records pertinent to the charge. In addition, Respondents are prohibited from retaliating against any person who has filed or otherwise participated in the investigation of a charge. A person who believes s/he has been retaliated against may file a retaliation charge with IDHR.

The Fact-Finding Conference

Both parties may be required to attend a fact-finding conference, which is a meeting conducted by an IDHR Investigator. It is an investigative tool designed to secure either a thorough investigation or a voluntary settlement. Each party presents its side of the dispute and responds to the opposing side. Failure to attend the fact-finding conference without a good reason can result in dismissal of the charge for the Complainant or default for Respondent.

If a fact-finding conference is held, either party may bring legal counsel if the attorney has entered a "Notice of Appearance." However, attorneys have a role that is strictly advisory and they may not testify at the conference except on matters of which they have first-hand knowledge, nor may they ask direct questions of either party.

It is not required that either party be represented by an attorney.

The Investigator will make sure that all parties have a full and fair opportunity to present their facts and evidence. Complainants not represented by legal counsel may bring a friend or relative to the conference for advice and moral support; however, that individual may testify only on matters of which s/he has first-hand knowledge relating to the charge. In addition, the Complainant may bring an interpreter to the conference if needed. Witnesses may also participate in the fact-finding conference, but they will be present at the discretion of the Investigator.

The Investigator will question the parties and allow the Complainant and Respondent alternate opportunities to respond and/or rebut the other party's statements. During this time both parties are allowed to present documents or testimony in support of their own position. The Investigator may identify and request further documentation necessary to investigate the charge.

The Investigator takes informal notes of the statements and responses. In accordance with the Illinois Department of Human Rights Regulations, these investigative notes are privileged and may not be given to either party. The conference is not a formal hearing and no stenographic transcripts are produced by IDHR.

Sometimes, the Investigator will not convene a fact-finding conference. If a conference is not held, the Investigator will gather the facts and evidence in separate contacts with the Respondent and Complainant via letter(s), phone, on-site interviews or by individual conferences.

The Findings and Results

After the investigation, a written report is prepared recommending whether or not there is “substantial evidence” of a violation of the Act. A finding of “substantial evidence” means that there is enough evidence for the Complainant to take the case either before an administrative law judge at the Illinois Human Rights Commission (“Commission”) (an agency that conducts hearings on complaints filed by IDHR on behalf of Complainant or by Complainant) or an appropriate state circuit court. That forum (either the Commission or the circuit court) will hear testimony, receive evidence and determine whether unlawful discrimination occurred.

If substantial evidence is found, Complainant has the option of either 1) requesting (within the time period specified in the Act) IDHR to file a complaint, on Complainant’s behalf, with the Commission, OR, 2) commencing a civil action (within the time period specified in the Act) in a state circuit court of appropriate venue.

If Complainant requests IDHR to file a complaint with the Commission, an IDHR attorney will be assigned to help the parties resolve or “conciliate” the charge. If a settlement agreement is not reached, the Department will file a Complaint of Civil Rights Violation with the Commission on behalf of Complainant. The Complainant bears the burden of proving the case before the Commission.

If IDHR finds a “lack of substantial evidence” of discrimination, it will dismiss the charge. Within the time period specified in the Act, Complainant has the option of either 1) filing a Request for Review with the Commission, OR, 2) commencing a civil action in a state circuit court of appropriate venue.

If Respondent has failed to file a timely verified response to the charge, or has failed to attend the fact-finding conference, a Notice of Default may be entered. Within the

time period specified in the Act, Respondent may file a Request for Review with the Commission. Final orders of the Commission may be appealed to the appropriate appellate court.

How Long Does the Process Take?

The Human Rights Act requires that IDHR conclude all proceedings and make a finding within

365 days of filing a perfected charge or as extended by written agreement of the parties. IDHR makes every attempt to complete a timely investigation. However, the investigator may request an extension of time to complete the investigation. If one or both of the parties refuse to sign an extension, and if the Department does not issue a finding or notice of dismissal within 365 days after the date the charge was filed, Complainant has 90 days to either file a complaint with the Commission OR commence a civil action in a state circuit court of appropriate venue. If Complainant does not file a complaint with the Commission or commence a civil action in state circuit court, no further action will be taken on the case.

The Commission is a separate state agency that conducts public hearings on complaints filed by IDHR or Complainant. The Department does not represent either party at the Commission. Both parties may obtain legal representation to properly present or defend the case before the administrative law judge and the Human Rights Commission.

If the Complainant wins at this level, the judge can order remedies allowed by the Act to make the Complainant “whole.” Remedies may include back pay, lost benefits, clearing of personnel file, emotional damages, hiring, promotion, reinstatement, front pay where reinstatement is not possible, and attorney’s fees and costs. Punitive damages, that is, damages intended to punish the employer, are not available pursuant to the Act.

Relationship with Federal Agencies and Federal Court

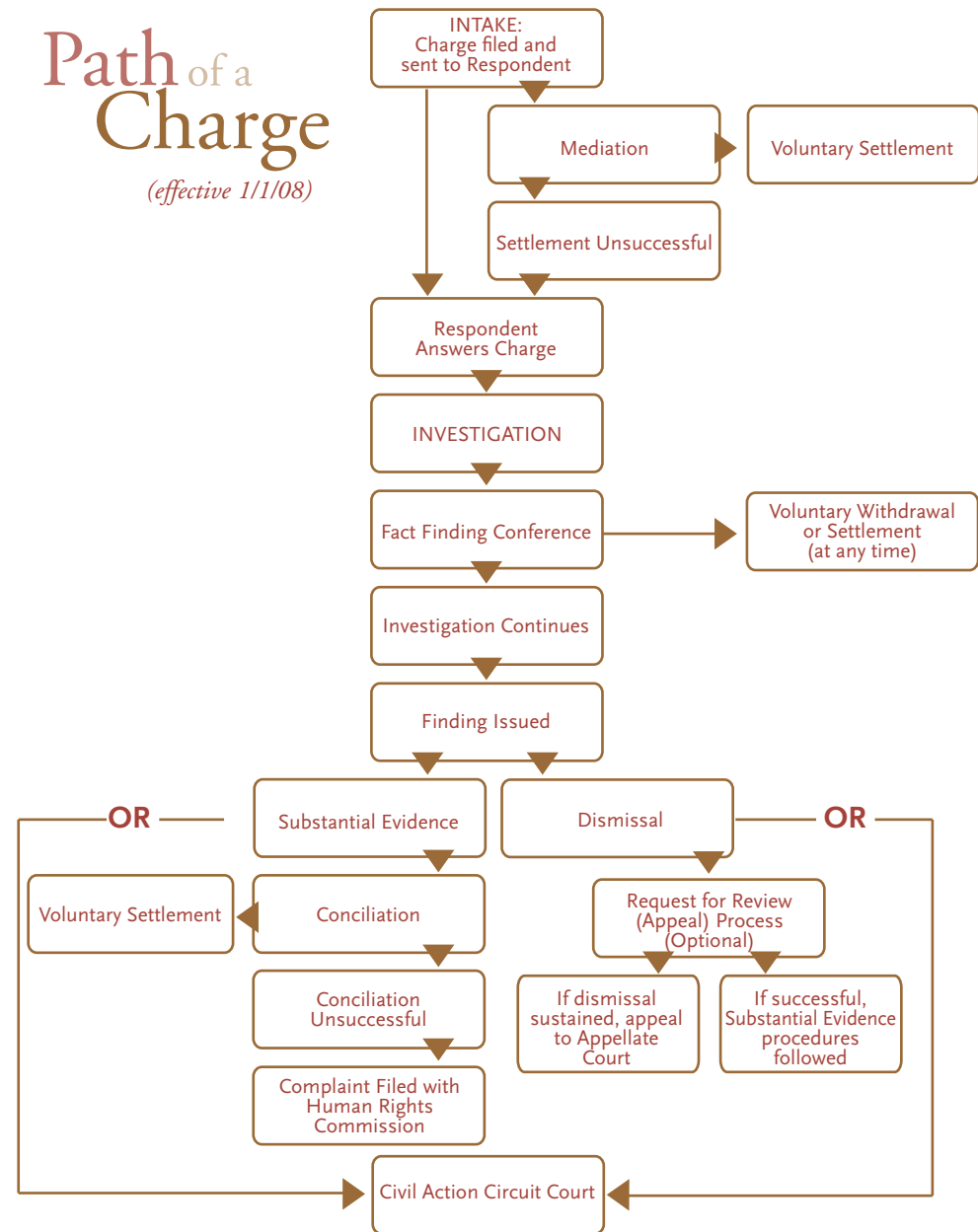
In order to preserve Complainant's federal rights, IDHR automatically cross-files eligible employment charges with the federal Equal Employment Opportunity Commission (EEOC), and conducts the investigation for EEOC under the terms of the agencies' Worksharing Agreement. Similarly, housing cases are cross-filed with the U.S. Department of Housing and Urban Development (HUD).

The Complainant in an employment charge may at any time request a "Right to Sue Notice" from the EEOC which allows him/her to file the case in federal court. If a complaint with the same issues as those filed with IDHR is filed in federal court and the Complainant has not withdrawn, the Respondent should provide a copy of the complaint, and IDHR will normally stay the investigation. In keeping with IDHR's neutral role, IDHR representatives cannot give legal advice to Complainants or Respondents.

TIPS FOR PREVENTING DISCRIMINATION:

- EDUCATE YOURSELF, YOUR MANAGEMENT STAFF AND YOUR EMPLOYEES ON WHAT THE LAW REQUIRES.
- DEVELOP AND IMPLEMENT CLEAR POLICIES AND FOLLOW THEM CONSISTENTLY.
- PREVENT SEXUAL HARASSMENT AND OTHER FORMS OF DISCRIMINATION BY POSTING POLICIES AND TRAINING ALL EMPLOYEES.
- INVESTIGATE DISCRIMINATION COMPLAINTS PROMPTLY, AND TAKE PROMPT REMEDIAL ACTION WHEN NECESSARY.
- MAINTAIN DOCUMENTATION.

Path of a Charge (effective 1/1/08)



For More Information Contact:

The Illinois Department of Human Rights
Office Hours: Monday through Friday 8:30 a.m. to 5:00 p.m.
(No intake interviews are conducted on Fridays.)

Website: www.illinois.gov/dhr

In Chicago:

James R. Thompson Center
100 West Randolph Street, Suite 10-100
Chicago, IL 60601
(312) 814-6200 or (800) 662-3942
(866) 740-3953 (TTY)
FAX: (312) 814-6251

In Springfield:

222 South College St., 1st Floor
Springfield, IL 62704
(217) 785-5100
(866) 740-3953 (TTY)
FAX: (217) 785-5106

In Marion:

2309 W. Main St.
Marion, IL 62959
(618) 993-7463
(866) 740-3953 (TTY)
FAX: (618) 993-7464

This pamphlet is intended as a general guide for understanding the major services and processes of the Illinois Department of Human Rights. This guide will not answer all questions about discrimination and any individual case may proceed differently from what is described. The Department has specific regulations and procedures it applies to each case. Please call the IDHR office nearest you with any questions about any of the topics described.

In compliance with the Americans with Disabilities Act, Section 504 of the Rehabilitation Act of 1973, and the Illinois Human Rights Act, the Department of Human Rights will ensure that all programs are readily accessible to and usable by qualified individuals with disabilities. The ADA Coordinator can provide additional information about compliance requirements, at (217)785-5119 (Voice) or (866) 740-3953(TTY).

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